

UNITED STATES OF AMERICA  
UNITED STATES COAST GUARD vs.  
DOCUMENT NO. 454 98 3974 D2  
Issued to: Stanley M. WILLIAMS

DECISION OF THE COMMANDANT ON APPEAL  
UNITED STATES COAST GUARD

2343

Stanley M. WILLIAMS

This appeal has been taken in accordance with 46 CFR 5.30-15.

By order dated 21 July 1983, an Administrative Law Judge of the United States Coast Guard at Houston, Texas revoked Appellant's mariners document upon finding proved the charge of "possession of marijuana aboard the SS INGER." On 31 August 1983 Appellant filed a Notice of Appeal from then Order of the Administrative Law Judge and a request for a temporary document. The Administrative Law Judge denied the request by his order dated 16 November 1983. Appellant's delay in filing the notice of appeal was caused by Hurricane Alicia. It will therefore be considered timely.

BASIS OF APPEAL

This appeal has been taken from the order of the Administrative Law Judge of 16 November 1983 denying a temporary document. Appellant advances no grounds for his appeal.

OPINION

The Administrative Law Judge's interpretation of the regulations and my Decisions on Appeal is not correct insofar as he concludes that temporary licenses or documents may not be issued following a finding that one of the offenses listed in 46 CFR 5.03-5(b) has been proved.

The fact that an offense is among those listed in 46 CFR 5.03-5 does not automatically preclude the issuance of a temporary document. Appeal Decision No. 2318 (STRUDWICK). In STRUDWICK I pointed out that the nature of the offense is not the only circumstance which may bear upon whether the service of a particular person on board a vessel is compatible with the requirements for safety of life and property at sea under 46 CFR 5.30-15(b)(1). The relevant factors to be balanced also include the circumstances surrounding the offense and its severity or seriousness. The Administrative Law Judge must also consider other evidence presented by the Appellant concerning his fitness to hold a temporary license or document.

The Administrative Law Judge must set forth the facts necessary for his determination of whether a temporary document should be issued. Those facts should be included in the brief statement of the grounds for denial required by 5 U.S.C. 555(e).

#### CONCLUSION

The order of the Administrative Law Judge denying Appellant's request for a temporary document was based on an incorrect interpretation of the regulations and my previous decisions. The Administrative Law Judge did not provide the required statement of his grounds for denial of a temporary document.

#### ORDER

The order of the Administrative Law Judge dated at Houston, Texas, on 16 November 1983 denying Appellant's request for a temporary document is VACATED. The request for a temporary document is REMANDED for a new decision consistent with this opinion.

J. S. GRACEY  
Admiral, U. S. Coast Guard  
Commandant

Signed at Washington, D.C., this 6th day of March 1984.